

Liability when governmental units contract for fire and emergency services

SB 407 by Deuell (Harper-Brown)

DIGEST: SB 407 would have allowed governmental units contracting with each other for fire or emergency services to determine by contract which party was responsible for civil liability relating to the services. In the absence of a contract addressing liability, the unit that requested and obtained the services would have been responsible for civil liability. Current law applies only to fire services and holds accountable the unit that would have been responsible for providing the services in the absence of a contract.

GOVERNOR'S REASON FOR VETO: "Senate Bill No. 407 attempts to encourage cities with fire departments and emergency services to make those services available to neighboring local government entities that do not have them. Unfortunately, the bill would have the exact opposite effect.

"Current law provides that when two governmental units contract to furnish or obtain fire services, the city furnishing the services cannot be sued for injuries or property damage that might be caused by the services.

"The city receiving the services 'is responsible for any civil liability that arises from the furnishing of those services.' This is more than merely an indemnity between the two governmental entities; it means that a plaintiff can only recover damages from the entity which receives the services.

"The bill replaces this statutory ban on lawsuits with a provision that inadvertently allows the city providing the services to be sued.

"The only protection the city would have under the bill is an indemnity agreement with the entity which receives the services. That means the city providing the services can be sued; once it pays a judgment, it must try to recover the amount it pays plaintiff by suing the entity which received the services.

"Further, in the event that the city provides fire or emergency services to another local governmental entity without a contract, the bill gives the city which provides the services the same shield from lawsuits that current law gives to a city which provides fire services under a contract.

"However, the wording of this provision makes the governmental unit which receives the services without a contract liable for any civil liability. School districts or hospital districts within the same city as the fire department would be liable for any damages that occur any time the fire or emergency services departments respond to an alarm at their facilities."

RESPONSE: Sen. Bob Deuell, author of SB 407, said: “I look forward to working with the governor next session to address concerns he has about SB 407. Approval of the governor is part of the process in passing legislation, and I was pleased to get SB 407 to his desk. Hopefully, next session, we will be able to adjust SB 407 to benefit all Texans.”

Rep. Linda Harper-Brown, the House sponsor, had no comment.

NOTES: SB 407 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.